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AMENDED IN SENATE JULY 16, 2015

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AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 723

Introduced by Assembly Member ~~Rendon~~ Chiu

February 25, 2015

An act to amend Sections ~~1101.4 and 1101.5~~ 50833, 51335, and 51340 of the ~~Civil Health and Safety Code~~, relating to ~~water conservation, housing, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 723, as amended, ~~Rendon Chiu. Rental property: plumbing fixtures: replacement.~~ *Housing: finance.*

(1) Existing law requires the Department of Housing and Community Development to allocate funds under the federal Community Development Block Grant Program to cities and counties. Existing law requires the department to determine and announce, in the applicable Notice of Funding Availability, the maximum amount of grant funds that may be used for economic development projects and programs, housing for persons and families of low or moderate income or for purposes directly related to the provision or improvement of housing opportunities for these persons and families, and for cities and counties

that apply on behalf of certain Indian tribes. Existing law requires the department to develop and use certain eligibility criteria and requirements for certain economic development fund applications.

This bill would authorize the Department of Housing and Community Development to issue a Notice of Funding Availability under which the director of the department could determine that an applicant previously awarded funds is eligible to apply for, and receive, additional funds pursuant to the Community Development Block Grant Program, without regard to whether the applicant has expended at least a certain percentage of funds previously awarded.

(2) Existing law authorizes the Housing Finance Agency to issue revenue bonds for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing and for the provision of capital improvements in connection with, and determined necessary to, that multifamily rental housing. Existing law requires no less than 20%, or 15% for those multifamily rental housing developments located in a target area, as defined, of the total number of units in a multifamily rental housing development, financed or for which financing has been extended or committed from the proceeds of sale of each bond issuance of the agency, to be for occupancy on a priority basis by lower income households. Existing law further requires that not less than $\frac{1}{2}$ of the units required for occupancy on a priority basis by lower income households be for occupancy on a priority basis for very low income households.

This bill would repeal the requirement that at least 15% of the total number of units in a target area development be for occupancy on a priority basis for lower income households. The bill would additionally repeal the requirement that not less than $\frac{1}{2}$ of the units required for occupancy on a priority basis by lower income households be for occupancy on a priority basis for very low income households. The bill would make conforming changes.

Existing law prohibits rental payments on units required for occupancy by very low income households paid by persons occupying the units from exceeding 30% of 50% of the area median income, and sets forth occupancy assumptions for adjusting rents for household size, as specified.

This bill would instead prohibit rental payment on units required for occupancy by lower income households paid by persons occupying the units from exceeding 30% of 80% of the area median income, and would authorize the agency to also utilize occupancy assumptions that it has

determined are appropriate and commercially reasonable for financing pursuant to these provisions.

Existing law provides that the authorization to issue revenue bonds for these purposes constitutes an alternative method to issue bonds for making construction loans and mortgage loans for multifamily rental housing.

This bill would instead provide that the authorization to issue revenue bonds for these purposes constitutes an alternative method to finance construction loans and mortgage loans for multifamily rental housing.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires, on and after January 1, 2017, replacement by the property owner of noncompliant plumbing fixtures in any single-family residential real property. Existing law requires, on and after January 1, 2019, replacement of noncompliant plumbing fixtures in multifamily residential real property and commercial real property, as specified.~~

~~This bill would require the lease or rental agreement of a single-family residential real property or any portion of a multifamily residential real property or commercial real property that is entered into, renewed, or amended after July 1, 2016, or January 1, 2017, respectively, to be accompanied by a written disclosure stating the property owner's responsibility to replace all noncompliant plumbing fixtures with water-conserving plumbing fixtures on or before January 1, 2017, or January 1, 2019, respectively.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 50833 of the Health and Safety Code is
2 amended to read:
3 50833. (a) The department shall determine and announce in
4 the applicable NOFA the percentage of the total amount of the
5 State Block Grant Program funds set aside for economic
6 development that shall be allocated to make economic development
7 planning and technical assistance grants to eligible small cities or
8 counties for business attraction, retention, and expansion programs
9 for the development of local economic development strategies,
10 predevelopment grant feasibility studies, and downtown

1 revitalization programs. Eligible small cities or counties may
2 contract with public agencies or nonprofit economic development
3 corporations and other eligible subgrantees or for-profit
4 corporations or entities to provide these services. Each applicant
5 shall be required to provide a cash match of up to 25 percent of
6 the total amount requested. A technical assistance grant received
7 under this set-aside is in addition to the city or county ceiling,
8 under Section 50832, or its ability to apply under the economic
9 development or general program set-asides. The department shall
10 determine and announce in the applicable NOFA the maximum
11 per year grant amount. Each applicant shall not receive more than
12 two grants per year and shall be eligible to apply each year,
13 although no applicant shall receive grants in excess of the
14 maximum amount determined by the department and announced
15 in the applicable NOFA in any one year. Funds not applied for or
16 allocated under this section may be used for other economic
17 development purposes under Sections 50832 and 50832.1.

18 (b) The department shall determine and announce in the
19 applicable NOFA the percentage of the total amount of the State
20 Block Grant Program funds not used for economic development
21 that shall be set aside to make technical assistance grants to eligible
22 small cities or counties for purposes including, but not limited to:
23 inventory of housing needing rehabilitation in the district, income
24 surveys of area residents, and any general studies of housing needs
25 in the district. Each applicant shall be required to provide a cash
26 match of up to 25 percent of the total amount requested. A technical
27 assistance grant received under this set-aside is in addition to the
28 city or county ceiling or its ability to apply under the economic
29 development or general program set-asides. Unexpended funds
30 allocated under this section shall revert to the general program,
31 but not to the economic development set-aside. The department
32 shall determine and announce in the applicable NOFA the
33 maximum grant amount per application. Each applicant shall not
34 receive more than two grants per year and shall be eligible to apply
35 each year, although no applicant shall receive grants in excess of
36 the maximum amount determined by the department and announced
37 in the applicable NOFA in any one year.

38 (c) If, under federal law, the economic development planning
39 and technical assistance grants and the general allocation planning
40 and assistance grants are considered to be administrative

1 expenditures, the department may reduce the percentages of the
2 set-asides by up to the amount necessary to remain within the
3 allowable limits for administrative expenditures.

4 (d) Two or more jurisdictions may pool their funds and make
5 a joint application for the same project.

6 (e) General administrative activity planning studies shall not be
7 counted against allocations under this section.

8 (f) *The department may issue a NOFA under which the director
9 may determine that an applicant with one or more current
10 Community Development Block Grant agreements signed in 2012
11 or later, for which the expenditure deadline established in the
12 grant agreement or agreements has not yet passed, is eligible to
13 apply for and receive an award of, funds pursuant to this chapter;
14 without regard to whether the applicant has expended at least 50
15 percent of Community Development Block Grant Funds awarded
16 in 2012 or thereafter. For any applicant that is so determined, the
17 director shall include in the application file a written confirmation
18 of eligibility and any award of funds. An application made pursuant
19 to the director's determination under this section may be evaluated
20 solely on the basis of eligibility, need, benefit, or readiness, without
21 regard to any specific rating criteria provided by Section 7078 of
22 the California Code of Regulations. The awarding of funds to an
23 applicant pursuant to the director's determination under this
24 section does not exempt those funds from consideration under any
25 expenditure requirement under law.*

26 *SEC. 2. Section 51335 of the Health and Safety Code is*
27 *amended to read:*

28 51335. (a) (1) Not less than 20 percent of the total number
29 of units in a multifamily rental housing development financed, or
30 for which financing has been extended or committed, pursuant to
31 this chapter ~~from the proceeds of sale of each bond issuance of the~~
32 ~~agency~~ shall be for occupancy on a priority basis by lower income
33 households. ~~If a multifamily rental housing development is located~~
34 ~~within a targeted area, as defined by Section 143(j) of Title 26 of~~
35 ~~the United States Code, not less than 15 percent of the total number~~
36 ~~of units financed, or for which financing has been extended or~~
37 ~~committed pursuant to this chapter, shall be for occupancy on a~~
38 ~~priority basis by lower income households. Not less than one-half~~
39 ~~of the units required for occupancy on a priority basis by lower~~

1 ~~income households shall be for occupancy on a priority basis for~~
2 ~~very low income households.~~

3 The rental payments on the units required for occupancy by ~~very~~
4 ~~low~~ lower income households paid by the persons occupying the
5 units (excluding any supplemental rental assistance from the state,
6 the federal government, or any other public agency to those persons
7 or on behalf of those units) shall not exceed 30 percent of ~~50~~ 80
8 percent of area median income. If the sponsor elects to establish
9 a base rent for all or part of the units for lower income ~~households~~
10 ~~and very low income~~ households, the base rents shall be adjusted
11 for household size. In adjusting rents for household size, the agency
12 shall *either* assume that one person will occupy a studio unit, two
13 persons will occupy a one-bedroom unit, three persons will occupy
14 a two-bedroom unit, four persons will occupy a three-bedroom
15 unit, and five persons will occupy a four-bedroom ~~unit.~~ *unit, or*
16 *utilize occupancy assumptions that it determines to be appropriate*
17 *and commercially reasonable for financing extended pursuant to*
18 *this chapter.*

19 (2) The local agency issuing permits for the development of
20 the multifamily rental housing development shall consider
21 opportunities to contribute to the economic feasibility of the units
22 and to the provision of units for very low income households
23 through concessions and inducements such as the following:

24 (A) Reductions in construction and design requirements.

25 (B) Reductions in setback and square footage requirements and
26 the ratio of vehicular parking spaces that would otherwise be
27 required.

28 (C) Granting density bonuses.

29 (D) Providing expedited processing of permits.

30 (E) Modifying zoning code requirements to allow mixed use
31 zoning.

32 (F) Reducing or eliminating fees and charges for filing and
33 processing applications, petitions, permits, planning services, water
34 and sewer connections, and other fees and charges.

35 (G) Reducing or eliminating requirements relating to monetary
36 exactions, dedications, reservations of land, or construction of
37 public facilities.

38 (H) Other financial incentives or concessions for the
39 multifamily rental housing development which result in identifiable
40 cost reductions, as determined by the agency. The agency shall

1 ensure that the local agency issuing permits for the development
2 considers its responsibilities under this section and makes a good
3 faith effort to enhance the feasibility of the project and to provide
4 housing for lower income households and very low income
5 households.

6 (3) The agency shall not permit a selection criteria to be applied
7 to certificate holders under Section 8 of the United States Housing
8 Act of 1937 (42 U.S.C. Sec. 1437f) that is any more burdensome
9 than the criteria applied to all other prospective tenants.

10 (4) It is the intent of the Legislature that the agency finance
11 projects that assist in meeting the urgent need for providing shelter
12 for lower income households, very low income households, and
13 persons and families of low or moderate income. To that end, the
14 quality of materials and the amenities provided should not be
15 excessive so as to hinder the prospect of achieving the stated goal.
16 The Legislature finds and declares that the design standards utilized
17 by the agency in the past including, but not limited to, the design
18 requirements adopted to govern the new construction program
19 under Section 8 of the United States Housing Act of 1937 (42
20 U.S.C. Sec. 1437f), are substantially in excess of those required
21 for a decent, healthy, and safe residential unit and intends, by the
22 amendment adding this paragraph to this section by the Statutes
23 of 1985, that the agency finance multifamily rental developments
24 with substantially less costly design requirements than those
25 required by the agency prior to January 1, 1986.

26 (5) It is the intent of the Legislature that the agency finance
27 projects that assist in meeting the urgent need for providing shelter
28 for families. To that end, developments with three- and
29 four-bedroom units affordable to larger families shall have priority
30 over competing developments.

31 (b) As a condition of financing pursuant to this chapter, the
32 housing sponsor shall enter into a regulatory agreement with the
33 agency providing that units reserved for occupancy by lower
34 income households remain available on a priority basis for
35 occupancy until the bonds are retired. The regulatory agreement
36 shall contain a provision making the covenants and conditions of
37 the agreement binding upon successors in interest of the housing
38 sponsor and, notwithstanding any other provision of law, these
39 burdens of the regulatory agreement shall run with the land. The
40 regulatory agreement shall be recorded in the office of the county

1 recorder of the county in which the multifamily rental housing
2 development is located. The regulatory agreement shall be recorded
3 in the grantor-grantee index to the name of the property owner as
4 grantor and to the name of the agency as grantee.

5 (c) The agency shall ensure that units occupied by lower income
6 households are of comparable quality and offer a range of sizes
7 and number of bedrooms comparable to those units which are
8 available to other tenants.

9 (d) (1) The agency shall give priority to processing
10 construction loans and mortgage loans or may take other steps
11 such as reducing loan fees for multifamily rental housing
12 developments which incorporate innovative and energy-efficient
13 techniques which reduce development or operating costs and which
14 have the lowest feasible per unit cost, as determined by the agency,
15 based on efficiency of design, the elimination of improvements
16 that are not required by applicable building standards, or a
17 reduction in the amount of local fees imposed on the development.

18 (2) The agency shall give equal priority to processing
19 construction loans and mortgage loans or may take other steps
20 such as reducing loan fees on multifamily rental housing
21 developments which do any of the following:

22 (A) Utilize federal housing or development assistance.

23 (B) Utilize redevelopment funds or other local financial
24 assistance, including, but not limited to, contributions of land, or
25 for which local fees have been reduced.

26 (C) Are sponsored by a nonprofit housing organization.

27 (D) Provide a significant number of housing units, as
28 determined by the agency, as part of a coordinated jobs and housing
29 plan adopted by a local government.

30 (E) Exceed a ratio whereby 20 percent of the units are reserved
31 for occupancy by lower income households, or whereby 10 percent
32 of the units are reserved for occupancy by very low income
33 households, or which provide units for lower income households
34 or very low income households for the longest period of time
35 beyond the minimum number of years.

36 (e) (1) New and existing rental housing developments may
37 be syndicated after prior written approval of the agency. The
38 agency shall grant that approval only after the agency determines
39 that the terms and conditions of the syndication comply with this
40 section.

(2) The terms and conditions of the syndication shall not reduce or limit any of the requirements of this chapter or regulations adopted or documents executed pursuant to this chapter. No requirements of the state shall be subordinated to the syndication agreement. A syndication shall not result in the provision of fewer assisted units, or the reduction of any benefits or services, than were in existence prior to the syndication agreement.

~~(f) At the option of the agency, the amendments to this section made by Chapter 907 of the Statutes of 1983 may be made applicable to any multifamily rental housing development financed by the issuance, on or after September 3, 1982, of bonds authorized by this chapter.~~

SEC. 3. Section 51340 of the Health and Safety Code is amended to read:

51340. This chapter constitutes an alternative method to issue bonds for making finance construction loans and mortgage loans for multifamily rental housing pursuant to the provisions of this chapter.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The lack of availability of affordable housing is of vital statewide importance and must be addressed as quickly as possible, and therefore this act must take immediate effect.

~~SECTION 1. Section 1101.4 of the Civil Code is amended to read:~~

~~1101.4. (a) On and after January 1, 2014, for all building alterations or improvements to single-family residential real property, as a condition for issuance of a certificate of final completion and occupancy or final permit approval by the local building department, the permit applicant shall replace all noncompliant plumbing fixtures with water-conserving plumbing fixtures.~~

~~(b) On or before January 1, 2017, noncompliant plumbing fixtures in any single-family residential real property shall be replaced by the property owner with water-conserving plumbing fixtures.~~

~~(c) On and after January 1, 2017, a seller or transferor of single-family residential real property shall disclose in writing to~~

~~1 the prospective purchaser or transferee the requirements of~~
~~2 subdivision (b) and whether the real property includes any~~
~~3 noncompliant plumbing fixtures.~~

~~4 (d) The lease or rental agreement of any single-family residential~~
~~5 real property that is entered into, renewed, or amended on or after~~
~~6 July 1, 2016, shall be accompanied by a written disclosure stating~~
~~7 the property owner's responsibility to replace all noncompliant~~
~~8 plumbing fixtures with water-conserving plumbing fixtures on or~~
~~9 before January 1, 2017.~~

~~10 (e) The following provision is deemed adequate to satisfy the~~
~~11 notice requirement prescribed by subdivision (d):~~

~~12 -~~

~~13 "Section 1101.4 of the Civil Code requires all single-family~~
~~14 residences to be equipped with water-conserving plumbing fixtures~~
~~15 on or after January 1, 2017. Section 1101.5 of the Civil Code~~
~~16 requires all multifamily residential real property and all commercial~~
~~17 real property to be equipped with water-conserving plumbing~~
~~18 fixtures on or after January 1, 2019. Fixtures in this dwelling,~~
~~19 multifamily residential real property, or commercial property may~~
~~20 not comply with Sections 1101.4 and 1101.5 of the Civil Code.~~
~~21 The property owner is responsible for equipping this property with~~
~~22 water-conserving plumbing fixtures by January 1, 2017, or January~~
~~23 1, 2019."~~

~~24 -~~

~~25 (f) Single-family residential real properties in compliance with~~
~~26 subdivision (a) or (b) shall not be required to comply with the~~
~~27 notice requirement prescribed by subdivision (d):~~

~~28 SEC. 2. Section 1101.5 of the Civil Code is amended to read:~~

~~29 1101.5. (a) On or before January 1, 2019, all noncompliant~~
~~30 plumbing fixtures in any multifamily residential real property and~~
~~31 in any commercial real property shall be replaced with~~
~~32 water-conserving plumbing fixtures.~~

~~33 (b) An owner or the owner's agent may enter the owner's~~
~~34 property for the purpose of installing, repairing, testing, and~~
~~35 maintaining water-conserving plumbing fixtures required by this~~
~~36 section, consistent with notice requirements of Section 1954.~~

~~37 (c) On and after January 1, 2019, the water-conserving plumbing~~
~~38 fixtures required by this section shall be operating at the~~
~~39 manufacturer's rated water consumption at the time that the tenant~~
~~40 takes possession. A tenant shall be responsible for notifying the~~

1 owner or owner's agent if the tenant becomes aware that a
2 water-conserving plumbing fixture within his or her unit is not
3 operating at the manufacturer's rated water consumption. The
4 owner or owner's agent shall correct an inoperability in a
5 water-conserving plumbing fixture upon notice by the tenant or if
6 detected by the owner or the owner's agent.

7 (d) (1) On and after January 1, 2014, all noncompliant plumbing
8 fixtures in any multifamily residential real property and any
9 commercial real property shall be replaced with water-conserving
10 plumbing fixtures in the following circumstances:

11 (A) For building additions in which the sum of concurrent
12 building permits by the same permit applicant would increase the
13 floor area of the space in a building by more than 10 percent, the
14 building permit applicant shall replace all noncompliant plumbing
15 fixtures in the building.

16 (B) For building alterations or improvements in which the total
17 construction cost estimated in the building permit is greater than
18 one hundred fifty thousand dollars (\$150,000), the building permit
19 applicant shall replace all noncompliant plumbing fixtures that
20 service the specific area of the improvement.

21 (C) Notwithstanding subparagraph (A) or (B), for any alterations
22 or improvements to a room in a building that require a building
23 permit and that room contains any noncompliant plumbing fixtures,
24 the building permit applicant shall replace all noncompliant
25 plumbing fixtures in that room.

26 (2) Replacement of all noncompliant plumbing fixtures with
27 water-conserving plumbing fixtures, as described in paragraph (1),
28 shall be a condition for issuance of a certificate of final completion
29 and occupancy or final permit approval by the local building
30 department.

31 (e) On and after January 1, 2019, a seller or transferor of
32 multifamily residential real property or of commercial real property
33 shall disclose to the prospective purchaser or transferee, in writing,
34 the requirements of subdivision (a) and whether the property
35 includes any noncompliant plumbing fixtures. This disclosure may
36 be included in other transactional documents.

37 (f) The lease or rental agreement of any portion of a multifamily
38 residential real property or commercial real property that is entered
39 into, renewed, or amended on or after January 1, 2017, shall be
40 accompanied by a written disclosure stating the property owner's

1 responsibility to replace all noncompliant plumbing fixtures with
2 water-conserving plumbing fixtures on or before January 1, 2019.

3 (g) ~~The following provision is deemed adequate to satisfy the~~
4 ~~notice requirement prescribed by subdivision (f):~~

5 –

6 “~~Section 1101.4 of the Civil Code requires all single-family~~
7 ~~residences to be equipped with water-conserving plumbing fixtures~~
8 ~~on or after January 1, 2017. Section 1101.5 of the Civil Code~~
9 ~~requires all multifamily residential real property and all commercial~~
10 ~~real property to be equipped with water-conserving plumbing~~
11 ~~fixtures on or after January 1, 2019. Fixtures in this dwelling,~~
12 ~~multifamily residential real property, or commercial property may~~
13 ~~not comply with Sections 1101.4 of 1101.5 of the Civil Code. The~~
14 ~~property owner is responsible for equipping this property with~~
15 ~~water-conserving plumbing fixtures by January 1, 2017, or January~~
16 ~~1, 2019.”~~

17 –

18 (h) ~~Multifamily residential real properties and commercial real~~
19 ~~properties in compliance with subdivision (a) or (d), and~~
20 ~~commercial real properties without plumbing fixtures, shall not~~
21 ~~be required to comply with the notice requirements prescribed by~~
22 ~~subdivision (f).~~